

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 845 - HB 947

March 10, 2023

SUMMARY OF BILL AS AMENDED (005317): Creates the Tennessee Board of Utility Regulation (Board) by merging the Utility Management Review Board (UMRB) and the Water and Wastewater Financing Board (WWFB) into a single entity with 11 board members. Transfers all ongoing business and the supervision of all entities of the UMRB and the WWFB to the Board and expands the Board's customer complaint authority.

Provides the Board regulatory authority over local natural gas systems and utility authorities that provide natural gas. Deletes the requirement that a utility district publish a financial statement after the close of the fiscal year.

Creates the Utility Revitalization Fund to allow the Board to provide mitigation grant payments to assist with the merger or consolidation of utility systems.

Deletes the UMRB and replaces the WWFB with the Board, with an initial termination date of June 30, 2025, in the *Tennessee Governmental Entity Review Law*.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Revenue – \$2,000,000/FY23-24/Utility Revitalization Fund

**Increase State Expenditures –
\$2,000,000/FY23-24/Utility District Revitalization Fund**

**Decrease State Expenditures – \$100/FY23-24 and Subsequent Years/
Comptroller of the Treasury**

Decrease Local Expenditures – Exceeds \$19,400/FY23-24 and Subsequent Years

Other Fiscal Impact – To the extent consolidated utility systems receive grants from the Utility Revitalization Fund, there will be an increase in local government revenue and an equivalent increase in state expenditures from the Utility Revitalization Fund. However, due to multiple unknown variables, the extent and timing of such impacts cannot be reasonably determined.

Additionally, a precise increase in recurring local expenditures for municipal gas systems and utility authorities cannot be reasonably determined, but is considered mandatory.*

Assumptions for the bill as amended:

- The office of the Comptroller of the Treasury (COT) currently staffs both the UMRB and the WWFB. Upon passage of the proposed legislation, the COT would continue to staff the Board.
- According to the COT, transferring the duties of the UMRB and the WWFB to the Board, providing the Board oversight over natural gas systems, and expanding customer complaint authority will not have a significant impact on the operation or staffing of the boards.
- The COT will be able to handle an increase in responsibilities using existing staff and resources, resulting in a not significant impact to state government.
- Expansion of the customer complaint authority will allow the Board to act on complaints regarding new subjects such as the justness and reasonableness of a utility's rates, a utility's failure to adopt and enforce policies for efficient and financial operation, and a utility's failure to serve new customers or developments, among others.
- Any secondary impacts as a result of this expansion are dependent on future complaints, which cannot be forecasted.
- The UMRB and the WWFB have nine members each, but share the same COT and Department of Environment and Conservation Commissioner designees, resulting in 16 individual members total.
- The proposed legislation establishes that the Board is composed of 11 members.
- Neither the UMRB nor the WWFB provide compensation for board members, though they do provide reimbursements for necessary expenses incurred.
- Based on information provided by the COT for the last three fiscal years,
 - The UMRB reimbursed:
 - FY19-20, \$602;
 - FY20-21, \$0; and
 - FY21-22, \$255.
 - The WWFB reimbursed:
 - FY19-20, \$302;
 - FY20-21, \$0; and
 - FY21-22, \$155.
 - It is assumed that the reimbursement of \$0 for FY20-21 is due to the COVID-19 pandemic, and therefore, not representative of a typical year's reimbursements. This figure will not be used in this analysis.
 - The average yearly reimbursement from the UMRB and the WWFB was \$329 $\{[(\$602 + \$225 + \$302 + \$155) / 4 \text{ years}]$.
 - The new board's membership is decreased by five to 11 members, so there will be a 31% $(5 / 16)$ decrease in reimbursements.
 - The recurring decrease to state expenditures is estimated to be \$102 $(\$329 \times 31\%)$ beginning in FY23-24.

- The proposed legislation expands regulatory authority over municipal natural gas systems and utility authorities providing natural gas.
- Both entities will be required to complete and submit an annual utility report to the COT. Furthermore, energy and utility authorities will be required to seek COT approval to issue bonds and to publish the COT report on the bond on the authority's website, as well as submit a budget to the COT for approval before the beginning of each fiscal year.
- The new administrative tasks for municipal natural gas systems and utility authorities may impact operations and result in a mandatory increase to local expenditures, the extent and timing of which will vary based on the size of each entity and the number of bonds issued. Any increase to local expenditures cannot be estimated.
- Deleting the requirement for utility districts to publish an annual financial statement in a newspaper will result in a decrease to local expenditures. This would impact approximately 170 utility districts in the state.
- Based on responses to the 2017 Local Government Survey conducted by the Fiscal Review Committee staff, participating local government officials reported the average cost for a newspaper notification is \$114.
- Deleting this requirement will result in a recurring decrease to local expenditures exceeding \$19,380 (\$114 x 170 utility districts).
- Currently, the UMRB has the authority to order a financially distressed utility district to merge into another utility district. The proposed legislation would expand the merger and consolidation powers of the Board for ailing utility systems.
- Utility district mergers occur rarely, so it is assumed that expanding the merger and consolidation powers of the Board for ailing utility systems will not result in a significant increase to the number of such mergers, and therefore, will not have any significant impact to state or local government.
- The Utility District Revitalization Fund is administered by the UMRB, which provides grants to utility districts that have merged or consolidated to mitigate the financial impact of the merger or consolidation.
- The proposed legislation deletes the Utility District Revitalization Fund and creates the Utility Revitalization Fund (Fund) in its place for the same purpose, but for utility systems.
- The Fund will receive the balance currently held by the Utility District Revitalization Fund, resulting in an increase to state revenue of \$2,000,000 and an equal, corresponding increase to state expenditures in FY23-24.
- To the extent utility systems receive grants from the Fund to offset the financial impact of the consolidation, there will be an increase in local government revenue and an equivalent increase in state expenditures from the Fund; however, due to unknown variables such as the dollar amount of each grant, the number of utility systems eligible for such grants, and the timing of those grants issued, precise recurring increases in state expenditures and local government revenue cannot be reasonably determined.

IMPACT TO COMMERCE OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumption:

- The proposed language is applicable to review of certain locally owned and operated utility districts, water or wastewater facilities, municipal gas systems, and utility authorities, and will therefore not result in any significant impact to jobs or commerce in Tennessee.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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